



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 10, 1995

Ms. Mercedes Leal  
Senior Assistant County Attorney  
Harris County  
1001 Preston, Suite 634  
Houston, Texas 77002-1891

OR95-1063

Dear Ms. Leal:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35771.

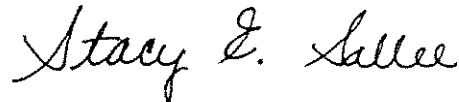
The Harris County Rabies/Animal Control Office (the "office") received a request for "any and all notes, correspondence, faxes, and any information pertaining to or regarding a small black Lhasa Apso dog being picked up at 11747 Yearling on August 11, 1995 by an employee . . . of 612 Canino Rd. Animal Control." You state that portions of the requested information will be released to the requestor. However, you claim that some of the requested information is excepted from disclosure under the informer's privilege as applied through section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

The Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5.

However, if the person who would have cause to resent the communication knows the informer's identity, the information may not be withheld under the informer's privilege. *See* Open Records Decision No. 202 (1978) at 2 (quoting *Roviaro v. United States*, 353 U.S. 53, 60 (1957)). From the information submitted to this office for review, it appears that the informer's identity is known to the person who would have cause to resent the communication.<sup>1</sup> Therefore, the office may not withhold the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/rho

Ref.: ID# 35771

Enclosures: Submitted documents

cc: Ms. Glenda Couch  
Legal Assistant  
Law Offices of Valorie W. Davenport  
1100 Louisiana, Suite 4450  
Houston, Texas 77002  
(w/o enclosures)

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<sup>1</sup>We note that the requestor knows where the animal was picked up.